

IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1858.—Ordered to be printed.

Mr. IVERSON made the following

REPORT.

[To accompany Bill S. (C. of C.) 183.]

*The Committee on Claims, to whom was referred the report of the Court of Claims in favor of the claim of Charner T. Scaife, administrator of Gilbert Stalker, report:*

This claim arises as follows, viz: In December 1840, Captain Ogden, quartermaster United States army, chartered the steamboat "James Adams" at \$2,500 per month. On the 26th April the boat was discharged. She was subsequently chartered, at different times, at \$2,000 per month, and at \$1,800 per month, all for service on the Florida coast during the Seminole war. The amount chargeable on the charter parties was duly paid.

The present claim is for an additional allowance of \$500 per month, from the 1st August, 1841, to 9th July, 1842, founded on a parole contract between the owner of the boat and General Worth, the commanding officer in Florida, on the part of the government. General Worth states that he has a distinct recollection of the circumstances, and of his assurance to Mr. Stalker "that if he continued the vessel in the public service, to which the vessel was, at that time indispensable, he should be paid an amount equal to his original contract." This promise, Captain Ogden, assistant quartermaster, says, "was predicated upon the unusually severe and destructive service required of the boat." Captain Ogden adds: "The rapid deterioration of the steamer, from the unusual service required of it, the promise of General Worth of an increased payment on that account, and the fact that Mr. Stalker would certainly have withdrawn his boat from the service if he had not expected the increase, &c.," renders the payment a matter of common justice.

The Court of Claims decide that, "as the service, to procure which the promise was made, was not required by the charter party, it cannot be said that the promise was without consideration. Neither can it be said that the promise was made without authority, it having been made by the commanding officer, in the presence of the quartermaster. It would, no doubt, have been more regular if the general

had caused a new charter party to be executed; but still, as the unusual service was performed in consequence of the promise, it seems to be proper that the government should pay for it."

The committee concur in these views, and report a bill.